

TEXAS DEPARTMENT OF PUBLIC SAFETY

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March 18, 1991

ID# 11925
SS-604

RQ-45

John Steiner, Assistant
Attorney General
Opinion Committee
Office of the Attorney General
Supreme Court Building
Austin, Texas

RE: OR91-128

Dear Mr. Steiner:

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Opinion Committee

The Texas Department of Public Safety has received a copy of OR91-128. The department has never received a request concerning the information at issue. However, in conversations with the Shelby and Panola Counties District Attorney, we have determined that the same materials at issue in OR91-128 are also in the possession of DPS.

The Texas Department of Public Safety submits that release of this information to the public will severely hinder the active and ongoing criminal investigation regarding James M. Fulgham. At the time the original request from Life and Champion newspapers was made, there was an open and current investigation under file number RA090292. That investigation was a joint effort between the Texas Ranger Service and the DPS Narcotics Service. That investigation has since been merged with another investigation into the activities of James M. Fulgham; that investigation began on February 5, 1991. Ranger Barry Caver is the lead investigator on this case. The Ranger Service is acting in conjunction with the U. S. Attorney's office, Criminal Division, Eastern District of Texas. Both agencies are looking into multiple violations, including theft, fraud, and narcotics violations. Part of the investigation concerns funds of the East Texas Task Force.

Information which would have to be released under OR91-128 would reveal the identity of a confidential informant. This informant is still active in the area in connection with the East Texas Task Force. That person's voice is on the tape of a conversation between Mr. Fulgham and the informant. The tape itself, as well as the holographic statement provided to you by the District Attorney, is evidence in this ongoing case. Disclosure of the confidential informant would jeopardize not only this case, but other cases that person is involved in. Also, although one can merely speculate as to what adverse action the informant may experience upon being revealed, the department feels it must protect the identity for the

physical safety of that person. Also, the integrity of the confidential informant system requires that we make every effort to keep this information confidential.

I have spoken with Ranger Caver's superior, Lieutenant William Vickers, who is familiar with this case since its inception. It is his opinion that public release of the investigative reports and materials gathered and compiled during the course of this investigation would seriously hamper the effectiveness of this investigation. All information gathered is shared with the U. S. Attorney's office, which is pursuing violations of federal law.

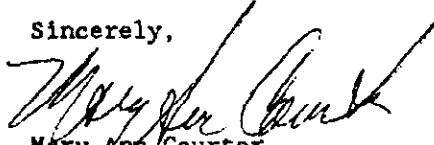
Also, some aspects of the investigation deal with polygraph examinations, which in itself is exempt from disclosure under section 3(a)(1) of the Open Records Act and article 4413(29cc), section 19A, V.T.C.S.

The department respectfully asks that the Shelby and Panola Counties District Attorney be allowed to withhold the information from public disclosure, since it would adversely affect the operations of the law enforcement and investigatory functions of DPS, as well as jeopardizing relations with the U. S. Attorney's office.

The department also requests that certain information disclosed to you in this letter concerning particulars of this investigation be held confidential by you and used only for making a determination as to disclosure of the materials.

Please feel free to contact me if you have any questions concerning this request. Thank you for your consideration in this matter.

Sincerely,



Mary Ann Courter
Assistant General Counsel

MAC:bif

cc: Karren S. Price
District Attorney
Shelby and Panola Counties